

M E M O R A N D U M

TO: THE HONORABLE MAYOR AND
MEMBERS OF CITY COUNCIL

FROM: IGNACIO B. PESSOA *IBP*
CITY ATTORNEY *ICSS/IBP*

KAREN S. SNOW
ASSISTANT CITY ATTORNEY

DATE: MAY 18, 2001

SUBJECT: LICENSE AGREEMENT WITH WILLIAMS COMMUNICATIONS OF
VIRGINIA, INC. (FORMERLY VYVX, INC.)

Issue: Whether to approve a three-year license renewal agreement with Williams Communications of Virginia, Inc.

Recommendation: That city council approve the attached three-year license agreement with Williams Communications of Virginia, Inc., and authorize the city manager to execute the license agreement and to take any other actions that are necessary to implement the agreement.

Discussion: In February 1998, the city entered into a three-year license agreement with Vyvx, Inc., which, after a corporate realignment, changed its name to Williams Communications of Virginia, Inc.

Williams is a provider of long-distance multimedia and digital communications systems. Williams carries long-distance point-to-carrier communications along an 11,000 mile network that it maintains. It is not a local-access, or local exchange, provider of telephone service. Thus, a long-distance communication using Williams' system initially travels through a local exchange provider, such as Verizon, and is eventually transferred to the Williams' system which carries it to the local exchange provider in the area where the communication terminates.

In 1998, the company was constructing a long-distance telecommunications system from Houston, Texas, into the Washington, D.C. area. Under its prior license agreement with the city, the company installed a portion of its system in the public right-of-way of Metro Road, near the Van Dorn Metro Station. This portion of the system starts in Metro Road at its intersection with Eisenhower Avenue and continues in Metro Road for about 1,100 feet, at which point it then enters property owned by Norfolk Southern. It next travels through WMATA property and along the WMATA right-of-way into the District of Columbia. Williams considers the portion of its system in Metro Road to be an integral link in its long-distance system.

The proposed license agreement is very similar to the prior agreement. The significant terms of the proposed agreement are discussed below.

First, the term of the agreement is for three years and runs from February 12, 2001 through February 11, 2004. Like the prior agreement, it is not, by its terms, renewable. However, the agreement grants to Williams the right to negotiate with the city for a new license at the conclusion of this agreement.

Second, as compensation to the city for its continued occupation of Metro Road, Williams will pay to the city, for each year of the agreement, a license fee equal to \$3.50 for each linear foot of Metro Road it occupies. This annual fee has been \$3,909.50. We have not increased the license fee because, under federal law, the city is allowed to charge a fee in an amount which will reasonably compensate the city for the telecommunications provider's occupation of the right-of-way and to ensure that the provider properly maintains the occupied right-of-way. City staff believe that the existing license fee is not only reasonable but insures that the Metro Road right-of-way is properly maintained. Thus, the City has no basis to support any alteration of the fee.

Third, unlike the prior agreement, the proposed license agreement does not authorize Williams to undertake any expansion of its existing system. However, the proposed agreement allows Williams to service, repair and replace components and equipment of its existing system.

Fourth, the agreement provides that the city can require Williams to remove or relocate, at Williams' expense, any conduits, cables or other equipment when city staff has determined that the equipment interferes with or disturbs the operation, improvement, repair or maintenance of the right-of-way or of other utility services.

Fifth, the agreement requires Williams to obtain permits from the city for any maintenance work and to repair any damages resulting from the work.

Sixth, the agreement provides that, upon its termination or nonrenewal, Williams will remove all its conduits, cables and other equipment from the city's rights-of-way.

Finally, the agreement provides that Williams must maintain adequate insurance to protect the city against claims arising from the system or the company's work on the system.

The proposed license agreement has been reviewed by the city's Department of Transportation and Environmental Services which recommends that it be approved.

We will be pleased to answer any questions that you may have about this matter.

Attachment

cc: Philip Sunderland
City Manager

Michele Evans
Assistant City Manager

Rose Williams Boyd
Director, Citizen Assistance

Richard Baier
Director, Department of Transportation and Environmental Services

LICENSE AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2001, by the City of Alexandria ("Licensor"), a municipal corporation of Virginia, and Williams Communications of Virginia, Inc. ("Licensee").

WHEREAS, Licensee desires to continue to occupy and utilize Licensor's public rights-of-way in connection with its operation, service, maintenance and repair of a long-distance telecommunications system and service; and

WHEREAS, Licensor is willing to permit Licensee to use solely, the public right-of-way of Metro Road, Alexandria, Virginia, which is defined and designated below, in connection with such system and service, in strict accordance with the terms and conditions of this Agreement as set forth below;

NOW, THEREFORE, in consideration of the premises, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

TERMS

1. Recitals. The recitals hereto are incorporated herein by this reference.

2. Definitions

(a) "Construct" or "Construction" shall mean the installation, construction and expansion of Licensee's system and Equipment, and shall include the placement of Licensee's Equipment within the Public Way and the City of Alexandria's public rights-of-way.

(b) "Director" shall mean the Director of the City's Department of Transportation and Environmental Services or the Director's designee.

(c) “Existing Equipment” or “Licensee Equipment” shall mean the conduits, cables and related equipment that Licensee installed along the length of Metro Road, under the terms of the License Agreement between Vyvx, Inc. and the City of Alexandria, dated February 11, 1998 (“Prior Agreement”).

(d) “Maintain” or “Maintenance” shall mean the maintenance, repair and replacement (including upgrading and non-material expansion) of Licensee’s Equipment which has been constructed and installed in the City’s Public Way pursuant to the Prior Agreement.

(e) “Person” shall mean a natural person or an association, partnership, corporation or other legally recognized entity.

(f) “Public Rights-of-Way” shall mean the surface, the area below the surface, and the air space above the surface of any of the following rights-of-way within the City of Alexandria, which are owned by or dedicated to the City of Alexandria over which there are easements granting access (whether or not limited) to the public; such as, highways, roads, streets, lanes, alleys, curbs, sidewalks, bridges, overpasses, underpasses and similar rights-of-way.

(g) “Public Way” shall mean the length of Metro Road, Alexandria, Virginia, from its intersection with Eisenhower Avenue to the right-of-way of the Norfolk Southern Railway in which Licensee Constructed and installed its Equipment under the Prior Agreement.

(h) “Remove” or removal” shall mean the permanent removal of the Licensee’s Equipment from the Public Way.

(i) “Telecommunications Services” shall mean all “telecommunications services,” as that term is defined in 47 U.S.C. § 153(46), and shall not include “cable service,” as that term is defined in 47 U.S.C. § 522(6).

3. Grant and Term of License

(a) Subject to the terms and conditions of this Agreement and in exchange for the consideration described herein, Licensors grants permission to Licensee to occupy and utilize, for the purpose of the operation, service, Maintenance, repair and Removal of a portion of a telecommunications system consisting of Licensee's Equipment and Existing Equipment in the Public Way. The permission granted by this subsection is non-exclusive, and nothing in this Agreement affects the right of Licensors to permit other persons and entities to use the Public Way. This Agreement shall grant no authority for the Licensee to use the Licensors's public rights-of-way other than the Public Way for any purposes other than to operate, repair, Maintain and Remove Licensee's Equipment. This Agreement does not confer any rights other than as expressly provided herein or as expressly required by federal, state or local law.

(b) This Agreement and the permission granted by subsection (a) shall be subject to the police power of the City of Alexandria, and to all ordinances heretofore or hereafter enacted by the Alexandria City Council, to all regulations promulgated by Licensors's officials and to other applicable federal and state laws and regulations.

(c) The term of this Agreement shall be three (3) years from February 12, 2001 through February 11, 2004. This Agreement may not be renewed, and Licensee has no right to the renewal of this Agreement. However, prior to the conclusion of the terms of this Agreement, Licensee shall have the right to negotiate with the Licensors for a new license for the Maintenance, operation, service, repair and Removal of Equipment within the Public Way and the Licensors's public rights-of-way.

(d) When used in this Agreement, the term "License Year" shall mean the period from February 12 of a year through February 11 of the following year.

4. License Fee

(a) As compensation for this license, Licensee shall pay to Licensor annually, for each of the three years of this Agreement, an annual license fee in the amount of three dollars and fifty cents (\$3.50) per linear foot for each linear foot of the distance along Metro Road that the Equipment occupies.

(b) The License Fee for each year of this Agreement shall be due on or before March 1.

(c) A penalty, equal to 10 percent of the due and owing License Fee, shall be assessed against Licensee whenever it fails to pay a License Fee on or before the date required by this section. In addition, interest, at the rate of ten (10) percent per annum on the due and owing License Fee shall be assessed against Licensee whenever it fails to pay the License Fee on or before the date required by this section, and said interest shall start to run the day after the day the License Fee was due.

(d) Licensee shall furnish to the Licensor with each License Fee payment a statement, executed by an authorized officer of Licensee, showing the number of linear feet of Equipment covered by and utilized in calculating the License Fee payment.

(e) If Licensee discovers that it has failed to make the entire or correct amount of the annual License Fee payment due, it shall pay to the Licensor the additional amount due (including a penalty of 10 percent of such amount and interest calculated under subsection (b)) within 15 days of its discovery of the underpayment. Any overpayment of the License Fee by Licensee through error or otherwise, shall be called to the attention of the Licensor which, if satisfied that an overpayment was made, shall offset the amount of the overpayment against the next annual License Fee payment due from Licensee.

(f) Acceptance by Licensor of any payment due under this section shall not be deemed to be a waiver by the Licensor of any breach of this Agreement occurring prior thereto; nor shall the acceptance by the Licensor of any such payment preclude the Licensor from later establishing that a larger amount was actually due, or from collecting any balance due.

(g) On or before February 12 of each year during the term of this Agreement, and on or before February 11, 2004, Licensee shall furnish the Licensor with a statement, executed by an authorized officer of licensee, certifying that the total License Fee paid by Licensee for the immediately preceding License Year was the correct amount required under this Agreement.

(h) The License Fee shall be paid in addition to, not instead of, any other amounts Licensee is required to pay Licensor by contract or under Licensor's taxing authority or otherwise.

5. Licensee's Books of Account and Records; Report

(a) Licensee shall keep accurate books of account for the purpose of determining the License Fee due to the Licensor. Licensee shall, within five (5) business days after a written request by the Licensor, forward to Licensee's primary office in Northern Virginia or another location of its choosing with the approval of the Licensor, copies of the books of account necessary to confirm the accuracy of payments due to the Licensor, which the Licensor may inspect during regular business hours. The Licensor may audit, or cause to be audited, these books from time to time, at the Licensor's expense, but in each case only to the extent necessary to confirm the accuracy of payments due to the Licensor.

(b) Upon reasonable request by the Licensor, the Licensee shall promptly transmit, mail or deliver copies of its financial records that will enable the Licensor to determine the accuracy of any License Fee payments made by Licensee.

(c) The Licensor agrees to hold in confidence, to the maximum extent permitted by law, any information it receives from Licensee which, at the time that it is submitted to the Licensor, is marked “proprietary information – confidential.”

6. Operations under License Agreement

(a) Construction. Licensee shall not perform any Construction in the Public Way or Licensor’s public rights-of-ways.

(b) Maintenance. Licensee may perform Maintenance on its Equipment from time to time without prior approval of the Director as long as none of the Equipment or workers involved in the Maintenance will, during the Maintenance, be located on the travel, parking, curb or sidewalk portion of the Public Way or the Licensor’s public rights-of-way that are regularly utilized by members of the public. Except where a Maintenance activity must be immediately undertaken to address an emergency condition that threatens the safety of persons or property, at least 15 days prior to performing any Maintenance activity on any Licensee Equipment which requires equipment or workers to be located on the travel, parking, curb or sidewalk portion of the Public Way or Licensor’s public rights-of-way, Licensee (i) shall inform the Director in writing of the location at which it intends to perform such Maintenance activity, (ii) shall describe the activity to be performed, (iii) shall provide any other reasonable information the Director requests, and (iv) shall obtain the approval of such Maintenance activity from the Director. In performing any approved Maintenance activity, Licensee shall comply with all reasonable requirements established by the Director. In addition, and notwithstanding the provisions of this subsection (b), Licensee shall maintain in good and safe condition all the Equipment it has placed within the Public Way, or other public rights-of-way and shall, in connection with any Maintenance activity it undertakes, comply with all applicable laws and

regulations (including but not limited to, obtaining permits from the Licensor to open the Public Way and/or the Licensor's public rights-of-way).

(c) Removal. Licensee may, at any time, in the exercise of its sole and absolute discretion, effect the Removal of any or all of its Equipment from the Public Way and/or the Licensor's public rights-of-way, which Removal shall not terminate this Agreement. When performing any aspect of Removal where the Equipment is being worked on or any of the equipment or workers involved in the Removal are located on the travel, parking, curb or sidewalk portion of the Public Way or the Licensor's public rights-of-way, or any other portion of the Public Way or the Licensor's public rights-of-way, that are regularly utilized by members of the public, Licensee shall comply with all procedures applicable to Maintenance, as set forth above in subsection (b). In addition to and notwithstanding, the provisions of this subsection (c), Licensee shall, in connection with any Removal activity, comply with any and all applicable laws and regulations.

(d) Licensee shall not place, Construct or install, or move or change the location of, any street light pole or other structure that is in, under or along any street, alley, or other right-of-way or public place in the City of Alexandria.

(e) Relocation. Licensee shall remove from or relocate within the Public Way, at its own expense (provided that all relocation costs for new facilities, as defined by Section 56-468.1 of the Code of Virginia (1950), ("Code"), as amended shall be reimbursed by the Licensor to Licensee in accordance with Code § 56-468.2) within 60 days of written notice provided by the Licensor, any of the Equipment identified by the Licensor in the written notice, whenever the Licensor, in its sole discretion, determines that (i) the Equipment interferes, disturbs or conflicts with the operation, relocation, improvement, repair, construction or maintenance of present or

future public rights-of-ways, public grounds, storm drainage systems, sewer systems, water mains, or other public or private facilities or utility systems, or (ii) the Equipment interferes, disturbs or conflicts with any public communications system or equipment (including but not limited to AM/FM radio, shortwave radio and two-way radio systems), or with any private communications system which was in operation at the time the Equipment was installed. Any relocation of the Equipment shall be subject to all the provisions, terms and conditions of this Agreement, and all applicable laws and regulations.

(f) When engaged in the Maintenance, Removal or repair of the Equipment under this Agreement, Licensee shall not cause any inconvenience to the general public or to the Licensor's work forces, shall not hinder or impede the flow of motor vehicle traffic, except as authorized by the Director and shall strictly abide by any requirements imposed by the Director, including requirements relating to time limitations.

(g) A copy of this Agreement, together with any written modifications thereto, shall be maintained on site by Licensee's employees or contractors at all times while Maintenance, Removal or repair activities are being undertaken.

7. Damage to Rights-of-Way by Licensee

(a) If, in the course of repair, Maintenance, Removal or replacement of, or otherwise dealing with any of its Equipment, Licensee damages any line, wire, pole, cable, conduit, pipe, switch and other form of facility or equipment (whether publicly or privately owned) located within the Public Way or public rights-of-way that are utilized in any way in connection with the provision of electricity, water, gas, sewer, cable television, Telecommunications or other similar services, or damages any pavement, street, alley, gutter, sidewalk, landscaping, located within public rights-of-way, Licensee shall promptly repair the

same at its own cost and expense, to as good or better condition as existed prior to the damage.

The Licensor, in its sole and complete discretion, shall determine if the repair is adequate. If Licensee shall default in this obligation, the Licensor may cure the default or, in its sole discretion, cause the default to be cured by another, and may charge to Licensee the costs it incurs in curing the default or in causing it to be cured; provided, that prior to performing any work to cure the default, Licensor shall give Licensee written notice of the default and a period of 30 days from the date of the notice within which to cure the default; provided further, that this 30-day period will be extended for a reasonable amount of time if the default cannot reasonably be cured within such period and Licensee has diligently pursued a cure during this period.

(b) Notwithstanding the provisions of subsection (a), if the Director determines, in his sole discretion, that damage, as described in subsection (a) threatens the public health or safety, the Licensor may immediately commence the repair of the damage and assess the costs it incurs upon the Licensee, as provided in subsection (a); provided, that, prior to commencing such repair work, the Licensor shall make a reasonable effort to provide Licensee with telephonic notice and an opportunity to immediately repair the damage itself. In the event Licensee is unable to, or otherwise fails to, immediately repair the damage and the Licensor performs the repair work, the Licensor shall, immediately upon completion of the work, provide Licensee with written notice of the work it has performed, and also shall, reasonably soon after the completion of the work, provide Licensee with a statement of the cost the Licensor incurred in performing the work.

(c) Any costs assessed upon Licensee under this section shall be paid to the Licensor within 10 days of the assessment, unless Licensee contests such assessment, in which case, the Licensor may in its discretion suspend payment pending resolution of such dispute.

8. Unauthorized Use. In the event of any occupation or use by Licensee of a street, alley, sidewalk or other public right-of-way or any other public property owned by or dedicated to the Licensor that is not authorized by this Agreement, Licensee shall, immediately upon notice by the Licensor, cease the use of and remove (unless the removal requirement is waived by the Licensor pursuant to Section 6(e)) all Equipment associated with the use. In addition, Licensee shall pay to Licensor a sum of five hundred dollars (\$500) for each day that any such unauthorized use occurs, whether or not notice under this section has been provided.

9. Insurance. Licensee shall obtain and maintain throughout the term of this Agreement the following insurance coverages:

(i) commercial general liability insurance in an amount not less than \$1,000,000 combined single limit coverage with \$1,000,000 general aggregate coverage, covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors and products liability; and

(ii) Virginia statutory workers compensation coverage including Virginia benefits and employers' liability with limits of \$100,000/\$100,000/\$500,000. The general aggregate limits shall apply to all Equipment and activities under this Agreement. Licensor shall be named an additional insured on the liability policy. Prior to the start of any work under this Agreement, Licensee shall provide to the Director a certificate of insurance demonstrating that Licensee has in force the coverages required above. The certificate of insurance shall include evidence of contractual liability coverage, and that the Licensor is an additional insured for purposes of the commercial general liability coverage, the contract number and title.

10. Indemnification

(a) Except for acts of gross negligence, willful misconduct or criminal acts by the Licensor, its officers, employees and agents, Licensee shall indemnify and hold harmless the Licensor and all of its officers, employees and agents from and against all suits, actions, causes of action, damages, claims, liability and expenses (including court costs and attorney's fees) resulting from or arising out of any bodily injury, death or property damage (including injury, death or property damage, or other losses, sustained by the Licensor or any of its officials, employees and agents) caused, in whole or in part, by any act or omission of the Licensee or its employees, officers, contractors, agents or servants relating to or involving the service, operation, Maintenance, repair or Removal of its Equipment or telecommunications system, or any part thereof, or otherwise under this Agreement, or by any other act or omission by such persons under this Agreement, except to the extent that such bodily injury, death or property damage, or other losses, are caused by the gross negligence or willful misconduct of the Licensor or any of its offices, employees and agents.

(b) If a suit or action for which Licensor and its officers, employees and agents are entitled to be indemnified and held harmless under subsection (a) shall be brought against the Licensor or one or more of its officers, employees or agents, either individually or jointly with Licensee, Licensee shall defend, indemnify and hold harmless the Licensor and the sued officers, employees and agents at the sole cost and expense of Licensee.

(c) If a final judgment is obtained against Licensor and/or one or more of its officers, employees and agents in a suit or action, either independently or jointly with Licensee, for which Licensor and its officers, employees and agents are entitled to be indemnified and held

harmless under subsection (a), Licensee shall pay every judgment, including all costs and attorneys' fees, entered against Licensor and any of its officers, employees and agents.

(d) The indemnities in this section shall survive the expiration or earlier termination of this license agreement for a period of five (5) years.

11. Termination and Expiration

(a) This Agreement may be terminated by Licensee, at its election and without cause, by delivering written notice of termination to the Director at least 60 days prior to the effective date of such termination.

(b) In the event that Licensee violates any term or condition of this Agreement, Licensee shall be considered in default. If such default continues for 30 days after Licensee has received written notice of the default from the Licensor, the Licensor may terminate the Agreement, effective immediately; provided, however, that such 30-day period will be extended for an additional period of time as is reasonable under the circumstances if Licensee's violation cannot reasonably be cured within the initial 30-day period and if Licensee has commenced a cure within such period and continues to diligently pursue such cure.

(c) If this license agreement is terminated, Licensee shall, at its sole expense, remove all Existing Equipment and Equipment from the Public Way and all other public rights-of-way and shall vacate, all rights-of-way within 180 days of the effective date of the termination.

(d) Upon written request of the Licensee, the Licensor may waive the requirements of subsections (c) and (d) of this section and permit Licensee to abandon any of its Equipment in the public rights-of-way.

(e) If Licensee fails to remove its Equipment as required by subsections (b) or (c) or receive permission to abandon its Equipment pursuant to subsection (d), (i) Licensor may remove or cause the removal of the Equipment, and Licensee shall pay to Licensor its costs in effecting such removal within 30 days of Licensor's provision of written notice of costs, or (ii) the Equipment shall be considered to have been conveyed to Licensor by Licensee, in which case they shall become the property of Licensor.

12. Assignment. This license may not be assigned by Licensee without the consent of Licensor, which consent may or may not be given at the sole discretion of the Licensor and may require action by Alexandria City Council. Any assignee or successor approved by Licensor shall be bound by all of the terms and conditions of this Agreement and shall be subject to all the obligations, stipulations and penalties herein prescribed.

13. Condemnation. Nothing in this Agreement is intended to or shall affect the Licensor's authority to acquire Licensee's Equipment located in the Public Way or Licensor's public rights-of-way pursuant to condemnation proceedings or otherwise pursuant to law.

14. Effective Date of Agreement. This License and the rights and privileges hereby conferred shall become effective on the date (the "Effective Date") that Licensee files with the Director (a) a copy of the Agreement executed by an authorized officer, and (b) a \$300,000 surety bond, with a good and sufficient surety reasonably acceptable to the Alexandria City Attorney, in the form attached as Exhibit A, and will comply with the terms, provisions and conditions of this license agreement in all respects.

15. License Not Exclusive. The license granted herein does not provide Licensee with exclusive use of Licensor's Public Way or any public rights-of-way and does not affect the

Licensor's ability to permit other persons and entities to use any of its rights-of-way in whatever manner Licensor deems warranted.

16. Representations

(a) By the signature below of its authorized legal representative, Licensee represents that it accepts this Agreement and agrees to comply with, and be bound by its terms and conditions.

(b) The parties represent that this Agreement constitutes the entire agreement between them, and supersedes any prior agreements between them, that no representation by either of them or their officials or employees has induced the other party to execute this Agreement, and that there are no inducements and promises or agreements, oral or otherwise, between them which are not embodied in this Agreement, which are of any force.

17. Amendments. No amendment of this Agreement shall be binding on either party unless set forth in a written document executed by authorized representatives of both parties.

18. Applicable Law. This Agreement shall be interpreted, construed and enforced under the laws of the Commonwealth of Virginia.

19. Compliance With Laws. The Licensee shall comply with all applicable federal, state and local laws and regulations.

20. Notice. All notices or other communications which are required or permitted herein shall be in writing and sufficient if (i) delivered personally, (ii) sent by overnight commercial courier (such as Federal Express), or (iii) sent by registered or certified mail, postage prepaid, return receipt requested, to the party at its addresses set forth below. Any such communication shall be deemed to have been given when delivered if delivered personally, on

the first business day of the dispatch if sent by overnight commercial air courier or on the fifth business day after posting if sent by mail.

If to Licensee: George Otey
Manager of Property Administration
Williams Communications of Virginia, Inc.
P.O. Box 22064
Tulsa, Oklahoma 74121

If to Licenser: Richard Baier, Director
City of Alexandria
Department of Transportation and Environmental Services
301 King Street, Room 4100
Alexandria, Virginia 22314

With a copy to: Ignacio B. Pessoa
City Attorney
301 King Street, Suite 1300
Alexandria, Virginia 22314

Any telephonic notice to be given to Licensee hereunder shall be to the following telephone number: (918) 573-0379. In the event of an emergency that threatens the public health or safety, as determined by the Director in his sole but reasonable discretion, telephonic notice shall be given to Licensee at the following telephone number (918) 588-4407.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

CITY OF ALEXANDRIA, a municipal corporation of Virginia

WILLIAMS COMMUNICATIONS OF VIRGINIA, INC.

By: _____
Philip Sunderland, City Manager

By: _____

Date: _____

Name: _____

Title: _____

Date: _____

Exhibit A

Bond Number:

SURETY BOND

KNOWN ALL MEN BY THESE PRESENTS:

That _____, as Principal, and _____, incorporated under the laws of the State of _____, and authorized to execute bonds and undertakings as sole surety, are held and firmly bound unto _____, as Oblige, in the sum of \$300,000; for the payment thereof, well truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these present.

The condition of the foregoing obligation is such that:

WHEREAS, the above bound Principal is about to enter into a certain license agreement with the Oblige granting permission to the Principal to maintain, repair, service and replace telecommunications equipment in and to occupy the public right-of-way of Metro Road, in the City of Alexandria, Virginia;

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said agreement during the original term thereof, and any extensions thereof which may be granted by the Oblige, with or without notice to the Surety, and if it shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Oblige from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Oblige all outlay and expenses which the Oblige may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDE, HOWEVER, this bond issued subject to the following express conditions:

1. This bond shall be deemed continuous in form and shall remain in full force and effect and shall run concurrently with the agreement period, and each and every succeeding renewal period or periods, after which liability hereunder shall cease except as to liability or indebtedness therefore incurred or accrued hereunder.

2. The aggregate liability of the Surety hereunder on all claims whatsoever shall not exceed the penal sum of this bond in any event.
3. The surety reserves the right to withdraw as surety from this bond except as to any liability incurred or accrued, and may do so upon giving the Obligee thirty (30) days written notice.

SIGNED AND SEALED this _____ day of _____, 19____.

PRINCIPAL

SURETY

(Type Company Name)

(Type Company Name)

By: _____
Title: _____

By: _____
Title: _____

Address:

Address:

Telephone:

Telephone:

(Affix Corporate Seals)

(Attach Acknowledgments of both Principal and Surety signatures)